

## **Appendix C**

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November 7, 2005

## VIA U.S. MAIL AND FACSIMILE

Ms. Celeste Cantu  
Executive Director  
State Water Resources Control Board  
1001 "I" Street  
Sacramento, CA 95814John Robertus  
Executive Officer  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, California 92123-4340Re: Facility ID 9000000916  
Bell Jr. High Landfill  
620 Briarwood, San Diego, CA

Dear Ms. Cantu and Mr. Robertus:

Our firm has been retained by the San Diego Unified School District ("School District") in the above-referenced matter.

By way of background, the County of San Diego ("County") operated the Bell Jr. High Landfill ("Landfill") under a lease with the School District between 1961 and 1967 as a disposal site for sanitary waste. The County was the Landfill's only operator. The County ceased operations at the Landfill on approximately November 4, 1966, and the lease with the School District terminated on January 16, 1967.

The School District constructed Bell Junior High School at the site in 1968. The school buildings were constructed on native soils east of the Landfill and the Landfill portion of the site has been used as a part of a playground.

On July 31, 2000, as you know, the San Diego Regional Water Quality Control Board ("regional board") added the Bell Junior High School Landfill to the list of regulated landfills and imposed new requirements to the post-closure maintenance of the site.

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Ms. Celeste Cantu  
Mr. John Robertus  
November 7, 2005  
Page 2

On October 31, 2000, the regional board also confirmed that the County was (and continues to be) the "operator" of the Landfill under the Water Code and directed the County to complete a groundwater investigation and report ("SWAT").

Accordingly, the School District requests that payment for the WDR fees be demanded from the County, the sole operator of the Landfill.

Further, the April 12, 2004, SWAT report demonstrates that there is no current threat to groundwater contamination from the Landfill thereby relieving the School District of the financial obligation of the WDR fee. The report concludes that only one of the six wells monitored, MW-3, contains Volatile Organic Compounds ("VOCs"). The report also concludes that: "The source of VOCs in MW-3 is not known." In fact, the Well Location Map shows that the contaminated well is more than 250 feet from the perimeter of the Site, and not within the groundwater flow direction.

The School District thus contends that the Landfill and any contamination at the MW-3 well are not related. Accordingly, the School District requests that the regional board consider a waiver of the current WDR fees against the School District, as well as a refund of all fees paid to date pursuant to Water Code § 13260(e). To date, the regional board has failed to inform the School District of the reasons for the imposition of the fee for the Landfill.

The School District has previously requested a waiver of these fees on or about February 15, 2005 but, to date, has not received the courtesy of a response. What is the status of our previous request? And what is the status of the School District's request that these fees be levied against the County, the operator of the Landfill?

We look forward to hearing from you. If you have any questions, please do not hesitate to give me a call.

Very truly yours,



Cyndy Day-Wilson  
of BEST BEST & KRIEGER LLP

CDW:mv

cc: Jose Gonzales, Esq.  
William Dos Santos  
Loren Chico

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